

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION AT HAMMOND

IN RE:	)	
CAMERON ROSS BERNARD	)	
dba/CAM'S TREE SERVICE &	)	
TRUCKING	)	BANKRUPTCY NO. 08-22462
	)	
Debtor	)	

ORDER

The Court on September 3, 2008 entered an Order denying the Motion filed by the Debtor on September 2, 2008 to Extend the Automatic Stay pursuant to §362(c)(3)(B) ("Order").

The Order denied said Motion because it was filed on the thirty-fourth (34th) day after the Petition was filed, and §363(c)(3)(B) requires that the hearing on any such Motion be completed, after notice, before the expiration of the thirty (30) day period after the filing of the Petition.

The Debtor on September 5, 2008 has filed his Motion to Set Aside said Order on the grounds the Debtor's counsel mistakenly believed that said Motion was timely filed when in fact it had not been filed. The Debtor asserts that this omission and error is such a mistake that constitutes grounds to set aside the Order for excusable neglect.<sup>1</sup>

Section 362(c)(3)(B) expressly provides that if the hearing on a Motion to Extend the Stay is not completed within thirty (30) days of the Petition date, the Automatic Stay is statutorily terminated by operation of law pursuant to §362(c)(3)(A). No Court order is required to terminate the Stay. The Court's Order did not operate to terminate the Stay. This was done automatically by operation of law. That Order merely decided that the Debtor's Motion was untimely. It was legally impossible for the Court to complete the hearing on the Debtor's Motion within thirty (30) days of the Petition date when the Motion was filed more than thirty (30) days after the Petition date. This Court has no authority at

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<sup>1</sup> Although the Debtor's Motion does not so state, the Court presumes that the Motion is based upon Fed. R. Bk. P. 60(b)(1) as made applicable by Fed. R. Bk. P. 9024.

this time to enter an Order extending the Stay when a hearing cannot be completed with thirty (30) days in face of the clear language of the statute because the Stay was terminated by operation of law.

The motion to set aside the Order deciding that the Motion by the Debtor to Extend the Stay was untimely is misplaced and no relief can be granted to the Debtor where the Stay was automatically terminated by operation of law without the necessity of a Court Order. It is therefore,

**ORDERED, ADJUDGED, AND DECREED**, that the Motion by the Debtor to Set Aside Order should be and is here by **DENIED**.

September 11, 2008

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JUDGE, U. S. BANKRUPTCY COURT

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Debtor  
Attorney Tokarski  
Trustee  
U. S. Trustee